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Sheriffs, etc., Commission on best mode
selecting, appointing, and remunerating

INTERIM REPORT

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Publications

RESPECTING

Toronto Police Court

OF THE

Commission to Inquire into, Consider and Report upon
the Best Mode of Selecting, Appointing and
Remunerating Sheriffs, etc., etc.

PRINTED BY ORDER OF
THE LEGISLATIVE ASSEMBLY OF ONTARIO



TORONTO

Printed by CLARKSON W. JAMES, Printer to the King's Most Excellent Majesty

1921

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TO HIS HONOR LIONEL HERBERT CLARKE,
MAY IT PLEASE YOUR HONOR:—

Having been appointed by Royal Commission to inquire into, consider and report upon the best mode of selecting, appointing and remunerating Police Magistrates and generally to consider and report upon all matters pertaining to the placing of the office of Police Magistrate upon the most efficient and business-like footing, we submitted a report thereon to Your Honor early in the present year. In that report we stated that the Police Magistrates of Toronto would be the subject of a separate report and that certain matters relating to Police Courts generally, not touched upon in our first report, would be dealt with in the separate report. That report we now submit.

THE TORONTO POLICE COURT.

The Toronto Police Court is by far the largest in Ontario. In 1919 the total number of cases tried in it was 30,170, and of these 5,502 were cases where indictable offences were charged. In 1920 the total number tried was 36,804 and of these 4,800 were indictable cases. In addition to the number of cases tried in 1920, 5,186 complaints were investigated, most of these being in the Department of Domestic Relations. The value of the lost and stolen property alone reported to the Toronto Police Court in 1920 was \$2,384,628.11 and the lost and stolen property recovered was valued at \$1,823,618.05.

GROWTH OF COURT.

The growth of the work of the Court is shown by the following table of the number of cases heard and the fines and costs collected in 1879 and in each tenth year beginning with the year 1887:—

Year	Cases	Fines and Costs Collected.
1879	6,554	\$ 7,952.59
1887	10,597	13,101.50
1897	7,750	8,823.50
1907	17,640	20,686.55
1917	25,714	137,270.00

In 1920 the fines and costs collected had risen to \$230,352.85 of which \$9,175.35 was for costs.

MAGISTRATES. At the present time four Magistrates try all the cases in the Toronto Police Court. Colonel Denison, the senior Police Magistrate, has held office since 1877 and is now in his eighty-second year. He is a man of marked ability, of high character, of unquestioned and unquestionable integrity and possesses a deep knowledge of human nature. During the period of nearly 44 years that he has occupied the Bench and served on the Police Commission he has rendered notable service to his native City. The other Magistrates are Mr. James E. Jones, Mr. P. V. Ellis, and Mr. Jacob Cohen. Mr. Jones is serving temporarily under a

six months' appointment. Colonel Denison was a lawyer at the time of his appointment; Mr. Jones is still a practising lawyer. Mr. Ellis and Mr. Cohen are not lawyers.

SALARIES OF MAGISTRATES.

The salaries paid to the present Magistrates are as follows:—

Colonel Denison,	\$6,000.00
Mr. J. E. Jones,	4,000.00
Mr. P. V. Ellis,	3,656.00
Mr. Jacob Cohen,	2,500.00

The minimum salary to be paid the senior Police Magistrate of Toronto is fixed by Statute at \$5000.00 per annum. This amount has been increased by the City Council in the case of Colonel Denison to \$6000.00 per annum. In addition to his salary as Magistrate, Colonel Denison receives from the City \$1500.00 per annum as member of the Board of Police Commissioners, so that the total received by him is brought up to \$7500.00 per annum. For the Deputy Police Magistrate the minimum salary fixed by Statute is \$3500.00 per annum. Magistrate Jones therefore receives from the City \$1000.00 per annum above the statutory minimum. An objectionable feature of the present system is that the City Council may at any time of its own motion cut down the salary of the senior Police Magistrate by \$1000.00 and reduce the salary of the Deputy Magistrate by a like amount; the Council may also take away altogether the \$1500.00 allowance to the Senior Police Magistrate as Police Commissioner. Throughout the Province strong objection has been taken by Police Magistrates and others to a system which virtually places the fixing of their salaries in the hands of the local Councils, and the opinion has been generally expressed that an adequate salary should be fixed by statute and the Magistrate thus placed in a position where he would be free from dependence upon the Council. Colonel Denison in referring to this matter says:—

"I think it is wrong, that the local Council should fix the salaries.....
You will see by my books where I refer to the troubles I had with the City Council!"

Police Magistrate Jelfs of Hamilton says:—

"I recommend that the Government should recognize the principle that no Magistrate should have to depend upon the civic authorities for his salary There are many who since the Motor Vehicles Act came into force are continually approaching Magistrates through an alderman to get some favor. If a Magistrate does his duty properly he cannot listen to them and yet they are the same men a Magistrate has to go to when he wants a raise in salary We have two or three constables appointed from the Hamilton Police Force as Chiefs of Police in other municipalities They have stated they could not do their duty because some councillor would come and tell them they must not do this or they must not do that I have had the Mayor asking for some favor that he wanted for some man"

of Chief Justice of the Province."

IMPORTANCE OF MAGISTRATE'S OFFICE.

At the hearing at Toronto, Mr. J. W. S. Corley, former Crown Attorney said:—

"The position of Police Magistrate of Toronto is as important as the position of Chief Justice of the Province."

We are in full agreement with this statement. The general body of the people of Toronto are more familiar with the Police Court than they are with any other Court. It deals with the most vital relations of those who come before it and its decisions have a deep and lasting effect upon the lives of themselves and their families. A large proportion of those who appear in the Police Court are foreigners, many of whom are not familiar even with our language, and it is of enormous importance that the immigrant, who often comes from lands where injustice and oppression prevail, and who in many instances becomes an easy prey to the unscrupulous, should receive, and believe that he receives, fair play and justice. If he believes that he does not receive fair treatment and loses confidence in our Courts he becomes easily subject to the influences of sedition and disorder. Hon. Elihu Root has well said that "The highest obligation of the Government is to procure justice for those who, because they are poor and weak and friendless, find it hard to maintain their own rights."

MACHINERY OF THE LAW.

Many disputes arise in our present complicated industrial and social relations and it does not follow that because the machinery of the law has served us well at one time, it will serve us well today. It has been truly said that the vital problem at the present time in the administration of justice is to repair the breakdowns and to overhaul parts of the machinery so that it may work more smoothly. As Judge Edward A. Perry of the English County Courts says in his work "The Law and The Poor," the legal disabilities of the poor result in nearly every case from defects in the machinery of the law, and are not created by any discriminations in substantive law against them. We shall, in our report, point out additions to and improvements in the existing machinery of Police Courts which, in our opinion, should be made.

ORDER OF BUSINESS.

Magistrate Cohen opens the Police Court in the morning at 9.30; the cases brought before him being almost exclusively those of men charged with drunkenness. At 10 o'clock Colonel Denison goes on the Bench in the same room, the cases tried by him being mostly indictable ones. In the afternoon the other cases, which are generally those for Breach of Municipal by-laws, and traffic cases, are tried in the same room by Magistrates Ellis and Cohen. The branch of the Police Court presided over by Magistrate Jones is opened at 10 o'clock in the morning and is held in a Committee room adjoining the room in which Colonel Denison holds his Court. Magistrate Jones' Court is known as the Women's Court and all cases in which women are charged are disposed of there. Mr. Jones also tries other cases.

CROWDING AND CONFUSION.

No one can visit the Police Court without being unfavorably impressed with prevailing conditions. In the Court room the space between the Magistrate's Bench and the prisoners is frequently so crowded, and there are so many interruptions, that the examination of witnesses is conducted with difficulty. The corridor adjoining the Court room is filled with a mass of policemen, parties awaiting trial, witnesses and lawyers, and the shouting of the policemen as they call out the names of the persons required in the Court room adds to the general disorder. Many complaints of rudeness and of indignities to which any one passing through that crowded corridor is subjected have been made. There

are few citizens whose business takes them to the Police Court who do not come away thoroughly disgusted with the place. Is it surprising that such conditions prevail when a Court room designed to provide accommodation for the trial of 8000 cases per year is now used for the trial of nearly 30,000 cases per year? Within its limits are tried each year more cases than the combined number of civil and criminal cases tried in all the other Police Courts of the Province, all the Assize Courts, all the County and District Courts, all the General Sessions of the Peace and all the County and District Judge's Criminal Courts. The result of this crowding can hardly fail to be discomfort to all and injustice to some.

Magistrate Cohen in describing conditions in and about the Court room says: "It is very crowded. On Monday morning many people have to wait in the corridor and they are driven into a corner like cattle There is often such a noise in the corridor that a witness will be called and he will not hear his name and after the Court is over the witness will say: 'I have been here since 9 or 10 and never heard my name called.'"

Mr. Arthur Webb, Assistant Police Court Clerk, says: "There is no place in which a lawyer can consult with his clients and they must go out into the hall to consult with them there. There is no room for the Crown witnesses. Very often women have to stay outside in the crowded hall and that is not a very pleasant place for them The people have to be just herded together and the constables have to be calling out 'Stand back! Stand back!' and there will often be 100 people standing as close together as on a street car and sometimes they will have to stand there a couple of hours or longer The result of the noise out in the hall is that there is a certain buzz in Colonel Denison's Court. It is really like the noise of a saw-mill or an afternoon tea."

Colonel R. H. Greer, former Crown Attorney for the County of York, says: "I think a great deal of the difficulty is due to lack of area, you have to be yelling for witnesses and the physical conditions make confusion. Witnesses pile around the doors and corridors. What they need is more room."

Former Crown Attorney Corley said: "Disorder is more frequent than order sometimes."

Magistrate Jones says: "When my door is open the noise from outside almost distracts me."

Mr. Conroy, speaking before the Commission for the Great War Veterans, said: "In the matter of the accommodation for the Police Court at Toronto, my impression is that it is entirely insufficient and the accommodation is very bad both for the Court and (in respect of) the cells and the waiting rooms. I have had on many occasions to go there to investigate cases, and sometimes it is almost impossible to get through. The officials are painstaking and civil, but sometimes they are apt to lose their tempers because of the conditions they have to put up with. Sometimes the atmosphere is so thick there that you can almost cut it with a knife."

County Crown Attorney Armour expressed his opinion to us in a few words. He said: "I think the best way to deal with the Police Court is to put a bomb under it and start afresh It is cooped up there in a small place and the whole atmosphere is against it."

OVERLAPPING OF COURTS.

Aside from the lack of reasonable space, the principal cause of overcrowding is that the Courts instead of being held concurrently in different Court rooms are held in succession in one Court room. Thus, while one Court is going on

the people begin to gather for the following one, and the crowding of the Court room and corridor—bad enough if there were only one Court—becomes doubly bad. Many whose cases are set down for trial in one Court frequently have to return home without having their cases heard because the room is required for the next Court.

Mr. Arthur Webb, Assistant Police Court Clerk, in referring to the condition of affairs says: "Sometimes the morning Court will last until two o'clock and then the room is required for the other Court, and the result is that at half-past one a great many cases have to be postponed. That occurs sometimes three times in a week. There may be 150 people waiting for the two o'clock Court and it is just as bad to keep them waiting as it is to bring the morning people back."

Magistrate Cohen says: "The Women's Court is held in a Committee room and very often before Court is over that room is wanted for some women's meeting and they will often be around the door waiting to get in."

Staff Inspector McKinney, of the Toronto Police Court, in referring to overcrowding says: "The only remedy would be to supply more Court rooms."

HASTE.

The crowding of nearly all the cases into one Court room not only causes inconvenience but seriously interferes with the proper administration of justice. The time within which the cases must be disposed of is limited and they are rushed through at a speed probably unknown elsewhere. The senior Police Magistrate seldom sits more than five days a week and there appears to be an unwritten rule that when he does sit the Court shall last not more than two hours. It is frequently over in a shorter period. This is the same rule that prevailed in the Court when the number of cases was less than one-third of what it is today. The number of cases disposed of in an hour at times reaches almost unbelievable figures. So speedily does the Colonel dispose of them that sometimes before an accused person knows what has happened he is sentenced and on his way down to the cells while the Colonel is trying another case. It has well been said that haste has no place in a Court of Justice and we find a strong feeling among both the legal profession and the public that sufficient time is not given for the proper consideration of cases. The senior Police Magistrate possesses such alertness of mind that he perhaps does not realize that other minds do not work so quickly as his own and that what does not seem haste to him is haste to others. It is difficult to avoid the conclusion that notwithstanding the senior Magistrate's remarkable intuition and long experience haste too often leads to a failure of justice.

Mr. J. G. O'Donoghue, in speaking of the Toronto Police Court, says: "I have known many cases in that Court where a man has been sent to gaol and did not understand anything about what had happened."

Inspector Gregory says: "We try to get the Court through in two hours, if possible."

Former Crown Attorney Corley says: "There is far too much haste in the Police Court. The Magistrate should be as willing as Judge Cohen is to be there in the afternoon as well as the forenoon We take no cases on Saturday When a prisoner is not tried on Saturday he has to wait until Monday. Time and again when a commercial traveller has been involved I have asked to

have the case tried on Saturday, but that would be a breach of the law of the Medes and Persians and I have never been able to get it done No one has more respect for Colonel Denison than I have. You must remember that he was appointed Police Magistrate of a very small City and now he is Police Magistrate of one of the great Cities of the world. Methods that would have been all right twenty or thirty years ago are hardly flexible enough for today. There is no reason why a man should wait for his trial tomorrow if he could be tried in the afternoon."

Mr. Gordon Shaver says: "You cannot try fifty cases in an hour and do justice to them all. It has always been recognised in the Police Court that business has to be got through by 12 o'clock and cases have to be adjourned and people sent back to gaol simply to get through by 12 o'clock."

Mr. W. W. Parry, in speaking for the Great War Veterans, said: "There does not seem to be time to consider each individual case. There is too much haste."

PREFERENCE FOR SESSIONS .

So strong is the feelings in some quarters against having cases tried in the Police Court that the number of cases in Toronto last year in which the party charged elected to be tried by the County Judge or at the Sessions instead of by the Magistrate was 1319. Of those who had their cases taken from the Police Court 411 pleaded guilty before the County Judge without any evidence being taken. There are doubtless various reasons for taking cases away from the Police Court but the dominating reason appears to be a desire on the part of the person charged to have an opportunity fully to present his case to the Court and a feeling that the County Court Judge will give the case more careful consideration before passing sentence than it would receive from the Police Court.

NEW BUILDING REQUIRED.

Proper and necessary accommodation for the Police Court cannot be provided at the City Hall. There is not sufficient room there. The difficulties will increase with the growth of the population and of the number of cases coming before the Court. The only way to provide proper accommodation will be to erect a building specially constructed for the Police Court and Police Headquarters and also probably for the County Judges for whom the accommodation now provided at the City Hall is glaringly inadequate. Rooms should also be provided for witnesses, for the holding of interviews between lawyers and their clients and also for use in any emergency that might arise. If a prisoner or any other person is taken ill in the Police Court today, there is no decent place in the City Hall to which he or she may be taken. Although the amount of stolen property recovered during the year by the Police is very large, there is no safe place for storage. In a new building adequate accommodation would be provided.

DUTIES AND HOURS.

There should be a sufficient number of thoroughly qualified Magistrates to dispose of all the cases coming before the Court and also to hold Coroners' inquests. Each Magistrate should have his own Court room and private room and all Magistrates should so far as possible hold Court at the same time.

There should be a senior Magistrate who would allot and apportion the cases among his colleagues and himself, and conferences of Magistrates should be held frequently. The regular hours of the Court should be from 9.30 a.m. to 4.30 p.m. and each Magistrate should be available for duty during these hours. This would assure sufficient time being given for the proper hearing of each case, and the cases of those summoned or arrested in the morning could be dealt with in the afternoon instead of standing over until the next day. The congestion of court rooms, corridors and goals now existing would disappear or be almost wholly remedied.

REASONABLE SALARIES FOR GOOD MEN.

The total salary of \$7500. per annum now paid to the senior Police Magistrate is a modest one considering the duties and responsibilities of the position. A salary of \$8000. per annum for the senior Magistrate would seem to be little enough and will probably have to be paid if the office is to be filled by an outstanding man. He undoubtedly should be a lawyer. The minimum salary fixed by Statute for the other Magistrates should be raised. To provide cheap Police Magistrates is false economy. To the innocent prisoner it is as important to have an efficient Magistrate as to have an able lawyer.

PRISONERS' QUARTERS.

In nothing is there a more pressing need for accommodation than for the care of prisoners. Those who are awaiting trial are kept in the old gaol on Gerrard Street. They are taken to and from the Police Court as occasion may require. While at the City Hall they are kept in an ill-lighted and ill-ventilated portion of the basement enclosed by iron bars, and from here they are taken to and from the dock in the Police Court. From the basement the women prisoners are taken through the crowded corridors to the Committee-room where the Women's Court is held. If a central building for the Police and other Courts is erected, well ventilated quarters for prisoners to be tried should be provided at the top of the building. There they should be kept until sentenced or released and from there they could be taken to and from the Court rooms as required.

Chief Constable Dickson, who impresses us as an able and most efficient officer, says: "I think the prisoners' quarters ought to be up where there is plenty of light and proper ventilation. Detroit, Winnipeg, and Vancouver have better accommodation than we have here."

His Honor Judge Coatsworth, senior Judge of the County of York, says: ". . . . the conditions of our detention cells in the City Hall are absolutely abominable."

Police Magistrate Cohen says: "I do not think it is reasonable to bring a man up from a dungeon like we have here. We have not proper accommodation for the prisoners In my opinion there should be a new building and the County Judge's Court should be there as well."

Mrs. A. M. Huestis, President of the Big Sister Association, says: "Adequate quarters should be provided for the housing of all Courts and police activities with proper waiting rooms and cells Now is the time to take a stand for a new building for police facilities to enable our admirable police force to more properly do their work."

Mr. John V. Conroy, speaking for the Great War Veterans, said: "I would strongly recommend that a new building be erected for the Police Court. It should be away from the City Hall."

Other cells than those at the Police Court are objectionable. Mr. J. G. O'Donoghue said to us: "When I went into the Court Street cells to speak to a client he warned me to stand clear of the walls, they were crawling with vermin and I had to stand back further than they could jump. That is absolutely inexcusable."

Mr. T. G. Matheson, in referring to the same Police Station, said: "I was placed in a cell that is a disgrace to this City. It was a filthy cell with an open closet in it."

DOMESTIC RELATIONS DEPARTMENT.

In a corner of the basement of the City Hall below the room where the Police Court is held are two small rooms where thousands of complaints regarding domestic relations are dealt with by Inspector Gregory and his staff. The room in which the complaints are heard is about 10 x 12 and is wholly inadequate. Those waiting to be heard often crowd the adjoining room and the narrow corridor leading to it, and there is a publicity and a lack of privacy about the whole proceedings which is deplorable. It would seem impossible to improve conditions unless proper quarters are provided.

ONE CENTRAL COURT.

Suggestions have been made in some quarters that instead of having one Police Court for Toronto, held at one central point, there should be several courts held at different points throughout the City and it has been urged that this would make for public convenience. On the other hand the view is strongly expressed that it would be much more convenient to have one central Police Court. The Crown Attorney could not be in four or five different parts of the City at the same time, and the farther apart the Courts the larger his staff would have to be. Prisoners could more readily obtain lawyers if the Courts were held at one place than if they were held at several places, and lawyers could doubtless be engaged at less expense than if they had to leave the central or some other Court and go to a Court elsewhere. The general supervision of the Courts under one presiding Magistrate would be much more effective if all were in the same building. A Magistrate could be allotted to try that class of cases that he was best qualified to deal with. A Judge of a branch Court might on some days have very little to do, whereas if the Courts were held in the same building one Judge could relieve another. If, as suggested by us, all prisoners to be tried in the Police Court were kept in the building in which the Court was held, the advantage of trying all Police Court cases at one central place would be undeniable. The Courts, too, would be much more in the public eye if they were in one building in the centre of the City. If they were scattered throughout the City, things might be done which should be the subject of public criticism, but would escape public notice.

A FILING SYSTEM.

The records of the Toronto Police Courts are kept by Mr. Curran Morrison, Police Court Clerk, who is appointed by the City Council and is not under the jurisdiction of the Police Commission. The record of cases is very faulty; there

is no alphabetical index and in order to find out whether or not there has been a previous conviction it is almost necessary to know the date, or about the date, upon which the case was tried; nor is there any index of places where the offence was committed. There is no doubt that there have been numerous cases in which parties charged have been tried and sentenced as first offenders when as a matter of fact the offence was a second or third one. We were told of one instance where there were four or five convictions against the same house and on each occasion a different member of the family was charged. There is good reason to believe that in many instances the knowledge of previous conviction is obtained by inquiry from the accused parties. It is most important that no time be lost in establishing a thoroughly up-to-date index system.

Inspector McKinney, one of the most experienced and efficient officials in the Police Court, said to us: "There is no means by which we can procure a conviction except in the clerk's office and they have no card index there, and I have told Mr. Morrison on several occasions that he should have a card index system If I want any information I have to look in the pigeonholes in the clerk's office; these pigeonholes are lettered A.B.C. etc., and sometimes I discover the information has been put in the wrong hole and that is how they are supposed to be lost If the constable knows that the man has been convicted but does not know the month or the year, it is almost impossible to find it unless you hunt over all the records for a long time. The only other chance you have is to look it up in the Orderly Room. There was a case cropped up yesterday where a woman was charged with selling liquor and she had been convicted last Good Friday and they were over an hour hunting for that conviction, and then it was found in the wrong pigeonhole."

Mr. A. Singer, Barrister, of Toronto, says: "I find that in the last 12 months there have been over 40 duplicate convictions under the O.T.A. where a man should have been sent to gaol instead of receiving a fine. Perhaps it is just carelessness, but what will people think who are breaking the law? They are going to be very suspicious that there is something wrong with the administration of justice. One man gets sent down and another man gets off with a fine. In these records there have been two convictions of one person on the same day and in both cases there is a fine."

THE DOCK.

A marked distinction is made at the trial between an accused person who is able to procure bail and one who is not. The one who is out on bail even though he may be charged with manslaughter, appears with his lawyer, while the one who has not been able to secure bail is put in the dock where the clean and the unclean, the innocent and the guilty, the man charged with murder and the man charged with having taken too much over night, appear together. The presence of a man in the dock is associated in the public mind with disgrace and crime. The dock itself is a relic of barbarism and should be removed. But whether removed or not there is no sufficient reason for subjecting a man to the ignominy of being placed there because he has not sufficient money to put up for bail and no friends to furnish it.

Mr. J. W. Curry, M.P.P., says: "We know that it is said to be a principle of British law that a man is presumed to be innocent before he is proven guilty. Immediately a man is brought into Court for trial he is at once labelled dangerous by being put in the pen and a man is put at each side of him so that he will not

injure anybody or escape. There ought to be a sufficient number of officers in the Court to see that the prisoner does not escape. The idea that immediately a man is arrested he has committed some offence ought to be got rid of He may be entirely innocent. He ought to be treated with every consideration and we should regret that he is in the position that he is in."

THE INSANE.

A class of individuals brought before the Police Magistrate, although guilty of no crime, are the insane. They are generally charged with being "dangerous to be at large" although many of them could scarcely be more harmless,—sometimes they are charged with being vagrants. They are so charged because a Magistrate cannot send a lunatic to a gaol, and the charge of being dangerous to be at large is made simply to evade the Statute, a practice that is highly improper and unbecoming to the Court. These people, helpless and sick in mind, should not have to reach the hospital for the insane through the medium of the Police Court any more than one suffering from injuries to the body should have to go to the Hospital by that way, yet such is the fate of scores of decent and worthy citizens. Many of them are men and women who have helped to build up Canada and make it what it is today, yet they are put in the prisoners' dock, often with thugs and murderers, and carted off to goal in the prison van. We propose to refer in a subsequent report, to the lack of care and proper treatment from which they suffer in the Toronto gaol and other gaols of the Province. They should go, not to the Police Court or the goal, but a Detention Home where they could be observed and treated, and from which, if finally found insane, they would go to a Hospital for the Insane.

In reply to our inquiry of Chief Constable Dickson as to the insane that pass through the Police Court, he said: "At the present time there is no place where they can be properly attended to; we had a proper Detention Home at one time. I do not think they have any proper accommodation at the gaol."

Inspector McKinney says: "While we had the Reception Hospital there was no trouble. We cannot legally charge a man with being insane and put him in the cell and we have to say he is disorderly or dangerous to be at large. That is an expedient."

Q. "What becomes of the original charge when he is found to be insane?"

A. "It is withdrawn or dismissed."

Q. "The missing link is the Detention Hospital?"

A. "Yes."

Inspector Gregory: ". . . . We have no Reception Hospital now, and if a doctor gives a certificate (of insanity) a proper committal is made out. Mr. Jones sent one down this morning.

Magistrate Jones: "I was ashamed of myself this morning to think I had to be a party to an inhuman way of treating a lunatic. This girl had been picked up on the street because her father had written from ———— that she had left home and was wandering about. The matter stood until she could be examined and she became worse and she is now so bad that she could not be brought before me this morning. I hope that is not a result of the way she was treated, but I rebel against anything of that kind, and something has got to be done."

CALENDAR OF CASES.

Much confusion is caused and much time lost at the Police Court because the parties do not know in what room their case is to be tried or at what hour it is to be heard.

Mr. Gordon Shaver, Barrister, says: "One of the great difficulties in the Police Court is that you never know when you are going to be called on."

When a lawyer familiar with the Court has difficulty in finding where the case is to be tried, the difficulties of the public must be much greater. Outside a Court room where civil cases are tried is placed a list of cases in the order in which they are to be heard. Why cannot the same practice be followed at the Police Court?

The order in which cases are heard might be arranged so as to make for greater public convenience and prevent unnecessary hardship. The following order suggested to us appears to us to be on the right lines:—

1. All cases coming on for hearing wherein adjournments or remands have been fixed by the Magistrate or arranged with the Crown Attorney should be heard first.

2. All cases in which the accused are in custody and not under bail should be tried next.

3. That the cases heard last should be those where the accused have been served with summons to appear or are out on bail.

This proposal seems to us to have merit and might well be acted upon.

TAXATION OF COSTS.

In many respects the lawyer is as necessary a part in the proper administration of law in the Police Court as the Magistrate. In our general report on Police Magistrates we have pointed out the difficulties that are met with by the poor in providing for their legal defence, and have suggested a remedy. Aside altogether from the suggested remedy, it is, in our opinion, desirable to make a change in the existing system. It must be borne in mind that many of the accused in the Police Court are uneducated and ignorant, not only of our laws, but of our language. It is our duty to see that they are fully protected and that no cause be given them to question the justice of our laws or their equal administration. Complaints have been made to us that in some instances accused persons have been overcharged by their lawyers. Every person overcharged for legal services may have his lawyer's bill taxed at Osgoode Hall, and if it is found by the taxing officer that there has been an overcharge, the amount of the overcharge must be refunded by the lawyer. This might seem at first glance to furnish an adequate remedy, but, in order to avail himself of it the first step of the client (who has perhaps no money left) is to engage another lawyer to obtain and serve notice of an appointment before the proper officer for the taxation of the bill. Often the client drops the matter rather than follow it any further. Some simpler and inexpensive process should be provided. Why should not the Clerk or Assistant Clerk of the Police Court be given power to tax the lawyer's bill on the application of the client? If this power were conferred the bill could be taxed at once in the Police Court, and the Police Clerk being familiar with the facts, there would be little occasion for the client to employ an attorney, and the matter could be disposed of without formality and with despatch. There might, if it were thought best, be an appeal from the Clerk or Assistant Clerk of the Police Court to the Magistrate who had tried the case.

Colonel Denison in speaking of this subject, says: "There ought to be a taxing officer there (the Police Court). I have thought that for a long time and then if any person complained we could say, "Go to so-and-so."

STENOGRAPHERS.

There is no stenographer in any of the Police Courts to take down the evidence. Whatever evidence is taken down, is taken down in longhand by the Acting Clerk of the Court and a mere fraction of it is actually recorded. The Clerk puts down whatever he regards as important and it is evident that in the case of appeal the summary of the evidence that he makes might create an impression most unfair to the accused. It has been found necessary in some cases where an appeal has been made, to re-summon witnesses and practically to re-try the case. If, at a trial, a party wishes a report of the evidence in an appealable case he now has to obtain it at his own expense. The taking down of the evidence by a competent official reporter would serve public convenience and make for the better administration of justice. It would also tend to keep out irrelevant evidence and make both Magistrates and Counsel more careful in their comments. The existing practice is as antiquated as the tallow candle or the quill pen.

Colonel Denison says: "It would be a good idea to have a stenographer in all important cases."

His Honor Judge Morson, who hears appeals from the Police Court, says: "I would suggest that they should have a stenographer in the Police Court. The difficulty I have met with in appeals from that Court is that the parties differ as to what took place then. They cannot take evidence down in full; they do not pretend to do it, and as a rule the material evidence is left out; in fact, the evidence consists of three or four lines. If the evidence were taken in shorthand the appeal might be disposed of on the evidence taken at the Police Court."

Former City Crown Attorney, J. W. Curry, says: "Until we have a shorthand reporter in that (the Police) Court, the Court never will be right and the man who is being tried will never get justice."

THE INTERPRETERS.

A large proportion of those brought up for trial are foreigners, speaking a foreign language only, and many of the witnesses are also of foreign nationality. Interpreters are provided and are paid at the rate of \$1.00 per case, with a maximum of \$4.00 per day, however many cases there may be. Under a rule, written or unwritten, prevailing at the Toronto Gaol and the Gaol Farm, no lawyer desiring an interview with a prisoner is permitted to take to the gaol an interpreter other than one of those employed at the Court. The result is that the same interpreters are employed in many cases both by the Crown and by the defendant and they receive confidential communications on each side. We are informed by several of the interpreters that information obtained by them when acting for private parties is sometimes disclosed by them to the Crown. We see no reason why any lawyer desiring to interview a client who is a prisoner, or to interview a prisoner on behalf of his client, should be compelled to communicate through the interpreter for the Crown. In our opinion he should be permitted to take with him to the gaol or Gaol Farm any interpreter who may be approved by the Governor of the gaol or the Superintendent of the Gaol Farm.

Very conclusive reasons why counsel should not be compelled to interview prisoners through the Court interpreters are disclosed in the following extracts from evidence given by two of the interpreters for the Toronto Police Court before this Commission:—

Mrs. Bagneto: "Another thing, by using the interpreters to go to gaol we get some very valuable information, and that helps the Police a great deal. I have a lot of cases where through me the Police have got a good case."

Q. "That is hardly fair to the prisoner?"

A. "Before I go I tell the detective."

Q. "The counsel for the prisoner would not like you to use the information which you get and give to the Police?"

A. "We do it."

Mr. Shonteff: "I do not unless they ask me. I do not carry any stories between the detectives and the lawyers, but if a detective asks me what this man said to any witness, I have got to tell the truth, I cannot lie."

Q. "Do you think that a man should be placed in that position?"

A. "It is my duty, that is the way of the Court."

Q. "Although the lawyer pays you for going down there?"

A. "He pays me to interpret, the same as a reporter takes down the evidence and anybody can get a copy from him."

Q. "Any reporter who takes down information is not entitled to give it out; it seems to me that what you are doing is very improper."

A. "Yes, it is, but that is the way the Courts are"

Q. "Do the prisoners realize at the time they are telling you that you may tell it to the Police?"

A. "No, I do not think they do."

As the official interpreters derive a large portion of their income from employment by private counsel they not unnaturally, at times, send clients to their patrons. It is most undesirable that such relations should exist between officials of the Court and lawyers practicing before it. One of the Interpreters has already been placed on salary, and in our opinion it would be well to put all Court Interpreters on salary instead of paying them by fees and also to prohibit their employment by private parties in Police Court work. When not engaged as interpreters they could be provided with work in some department of the City Government.

Mr. Corley, former Crown Attorney for Toronto, says: "These interpreters cannot make a living unless they are employed by the defence to go to gaol and interview the prisoners. That system is very undesirable. These interpreters should be paid a salary. They will naturally favor the man who employs them. The only way that a counsel for the defence can interview a client is at the gaol The interpreter should be paid a salary and absolutely forbidden to take any other business."

Mr. Arthur Webb, Assistant Clerk of the Police Court, says: "As long as you do not have paid interpreters there will always be trouble."

Mr. A. Singer, Barrister, says: "The proper remedy is to employ interpreters who are well paid for the time they are employed, and when they are not working in Court they should be employed in some other clerical capacity at the City Hall or some other Police Department so that they will give value for the remuneration they receive."

Mr. J. W. Curry, M.P.P., former Crown Attorney for Toronto, says: "The interpreters ought to be in the employ of the City (They should not be permitted to be out in the halls speaking to the prosecutor or the different lawyers in connection with cases to be tried. There may not be anything wrong but there is always the suspicion of something wrong They are sapping the confidence which people should have in the administration of justice; sapping the confidence the foreigners who come here should have in the administration of justice The complaints are many."

MEALS FOR PERSONS IN CUSTODY.

At the present time no meals are provided for the parties who have been arrested and are held at Police Stations for trial at the Police Court, but they are required to provide them at their own expense. If they have no funds a scanty meal is furnished. There also appears to be no distinction made at the gaol between the character of the meal furnished to those who have been sentenced and are undergoing or about to undergo a term of imprisonment and those who are awaiting trial. We find also that witnesses who are guilty of no crime but are detained to give evidence at a trial are committed to gaol and given the same accommodation and fare as if they were prisoners convicted of crime. Surely good meals should be provided for all prisoners held for trial. Witnesses held to give evidence should not be sent to gaol at all. If it is found necessary to detain them they should be sent to a Detention House and be given good fare.

We take the following extract from the evidence given before us on this subject:—

Mr. J. G. O'Donoghue: "A couple of Italians came here in connection with a criminal matter as witnesses and they were put into gaol, and they asked \$20,000. and \$10,000. bail, and at the end of three weeks they were let out and no charge made against them.

Q. "Is there any special place for people who are detained as witnesses?"

A. "They go to gaol just the same."

Inspector McKinney: "Where a man is detained as a material witness there should be a special place to put him."

Q. "Do you often have to detain people as material witnesses?"

A. "Yes, quite often."

Q. "Do these witnesses who are detained in that way receive gaol fare?"

A. "I could not say, they can have food sent in from the outside, undoubtedly people who are detained as witnesses should receive different treatment from prisoners."

PRIVATE HEARINGS.

As a general rule there should be publicity in the hearing of all cases. No case should be heard in private except on the order of the Judge or Magistrate trying the case. Where the Judge or Magistrate does so order accommodation for private hearing should be available. At the present time such accommodation does not exist and it will be difficult to provide it in the City Hall.

A WOMAN MAGISTRATE.

We have been asked by a large group of Social Workers to recommend the appointment of a woman Magistrate.

Mrs. Emma O'Sullivan, Superintendant of the Mercer Reformatory, says: "One reason I would advance for a woman Magistrate is the dreadful conditions under which a woman must appear before a Magistrate who is not a woman. The conditions of her offence are such that it is extremely difficult for her to state them before a male Magistrate."

Alderman (Mrs. L. A.) Hamilton, in speaking to us of the work done by Mrs. Norris, a Judge in one of the New York City Courts said: "I feel that we should have something of that kind here. She (Mrs. Norris), states that there is often a spark left in the worst of them (dissolute women) and that it can be gradually fanned up into a flame, this spark of feminine modesty that you find in a woman. That spark is often crushed out by the fact that she has to give evidence before a man. That is especially the case with very young girls."

In reply to an inquiry as to why it is that so few Courts are presided over by women, Mrs. Laughton said: "I think the chief reason is that until very recently women have not been found to take positions of that kind; they probably have been too nervous, or frightened at responsibility. Women have now come to recognise the great need for women Magistrates."

Q. "What qualifications would you require of a woman to preside over a Magistrate Court?"

A. "I think the first essential should be that she should be socially minded; she should be well grounded in social ideas so that the chief idea would not be to punish but rather to re-construct and build up. I know that a great many people are not in sympathy with me in this, but I also think that she should have legal training because even in the Juvenile Court, I have seen the Judge very much upset by a couple of lawyers who were in Court in a case and I have seen the Judge have to postpone a case until he could get legal advice."

Mr. Frank N. Stapleford, General Secretary, Neighborhood Workers' Association, says: "A woman Magistrate should be appointed. In case of deserting husbands, the view of providing adequately for husbands first, with only meagre and inadequate allowances to the family, has been general. More consideration should be given to the feelings and welfare of the wives."

One of the recommendations submitted to us by the Big Sister Association is: "That a woman Magistrate, to alternate in her duties between the Woman's Court and the Juvenile Court and to deal with all cases pertaining to women and girls, be appointed."

A different view is expressed by others.

Police Magistrate Cohen says: "I think it would be a big mistake to appoint a woman Magistrate, because a woman Magistrate would not be as merciful as a man like Mr. Jones or anybody else. A man has more pity and mercy than a woman, and feels more for a woman than another woman would, he pities her and has more sympathy. The woman would prefer to be tried by a man and I think it is your duty to see that she has the right to be tried by a man. I see the feeling of woman witnesses for a woman; they would like you to send the prisoner down for life when it is a case of woman against woman."

Magistrate Jones says: "If a woman wanted to get away from a Magistrate she would want to be tried by a jury. During the three weeks that I have been on the Bench I have not had one woman ask to be tried by a jury. Of course I have not had the experience that Mr. Cohen has had, but my impression is that a woman Magistrate is absolutely unnecessary and out of place."

Police Magistrate Denison in referring to the suggestion that a woman Magistrate be appointed says: "I do not think the women would like it.. I think a woman would rather be tried by a man."

Former Crown Attorney Corley says: "If you can find any woman who would be kinder to these people than Mr. Kingsford was, or than Mr. Cohen and Mr. Jones are, you might make her Magistrate but you would have a hard job to find her. There is more sympathy given to a woman by a man."

Inspector McKinney says: "I have found out on occasions too numerous to mention that a woman will not tell her troubles, nor tell them truthfully, to one of her own sex, not nearly so well as she will tell them to a man. When she has put down her statement on three sheets of foolscap to our best investigating woman and is brought into myself or Inspector Gregory, in five minutes we will find out that the whole story she has told is absolutely wrong"

Q. "You think women will disclose their story to a man as freely as to a woman?"

A. "Yes, and a man will get the truth ten times better than any woman A woman Magistrate would only cover a few hours a day, and I do not think a woman would be any more capable of exercising good judgement than a Magistrate who is sitting in the Court. I do not think any man even would be better able to discriminate between right and wrong than a Magistrate who has sat for years and has had long experience."

We did not have an opportunity to question women who have been up before a Magistrate, on this subject, but our opinion gathered from the testimony given before us is that women as a rule prefer to be tried before a man. That is, of course, not a conclusive reason against the appointment of a woman Magistrate. It appears to us that the main consideration in the appointment of a magistrate is one of qualification. If a woman is appointed she should be appointed, not because she is a woman, but because of her special qualifications for the post. It would be a misfortune if a woman, or a man for that matter, were appointed Magistrate who was not able properly to administer justice.

PROBATION OFFICER.

A civil case of importance is examined from all angles, and is carried from one court to another for fuller argument and consideration. Every fact bearing upon it is brought to the attention of the Judges, while cases in Police Courts which vitally concern human beings are oftentimes hastily dealt with, and a human life made or marred in a few minutes. However great the experience a Magistrate may have had or however high his mental qualifications may be, he cannot act intelligently on the cases tried before him unless he possesses a comprehensive knowledge of them. Before giving judgement he should know the history of the accused, his social surroundings, his mental condition. Many an injustice has unwittingly been done, many men and women, who might have been made useful citizens, have become confirmed criminals and perpetual charges upon the State and many a young life has been hopelessly wrecked because of the lack of knowledge and sympathetic understanding of judges and magistrates.

In order that the magistrates may have this knowledge there should be an efficient probation staff that would investigate the history of the prisoner, study his environment and obtain for the judge before he sentences the accused such information as may enable him properly to deal with the case.

If the Magistrate decides not to impose sentence but to give the accused an opportunity to reform, the Probation officer would take up the case, keep in touch with the accused and report to the Court from time to time. The Probation system has, we believe, saved many a one who has gone astray and made good citizens out of those who otherwise would have been irretrievably lost and have become a perpetual menace to the community.

In describing to us the work of a Probation Officer, His Honor Judge Coatsworth says: "What a Probation Officer does is this: A case comes up before a Judge and he finds the accused guilty. It is then adjourned for forty-eight hours. The Probation Officer comes to the Judge and he is instructed to look into this person and make a report. The Probation Officer goes to the home and finds out all about that man, and all about the home surroundings, the companionships, the habits of the person charged, what he works at and how he spends his time and all the information that can be got. When that comes before the Judge, the Judge says to the Probation Officer, "Can you do anything with this party?" The Probation Officer says, "Yes, while he is weak and foolish, I think if I had him under me for a year he might be reformed." The Judge says, "All right, you will be committed to the Probation Officer, or will be on probation for a year. You report to him and make all arrangements with him." Then the Probation Officer has him report to him once a week, or once a month, as he thinks best. In addition to that the Probation Officer goes to his home and finds out how he is getting along and helps him to find work if he isn't working; he takes him to some Church, whatever he belongs to, and introduces him to the Parish Priest or the Rabbi or the Parson, and then takes him to some neighborhood Society, some "Big Brother" movement, and gets him introduced socially. The Probation Officers are selected after careful examination. The chief thing is in picking these Officers."

His Honor Judge Coatsworth further says: "They tell me in Chicago 87½ per cent of the parole prisoners make good. We get the first weeding-out here . . . those who are abandoned. We fail in not having here the second weeding-out by the system of probation. I am going to fight for that. Not only do these men report to the Probation Officer, but he goes to their home and sees the wives and sees that they are making good. They watch their environments, their companionships . . . I do think one of the changes that is going to come about before very long is that hereafter the motive behind the judge and behind the law in dealing with a prisoner will not be so much punishment as reformation--reformation and usefulness instead of degradation and uselessness, which has been the lot of the prisoner almost universally until the last few years."

Magistrate Cohen says: "I think a Probation Court would be a good idea."

Magistrate Jones says: "I would like to see a Probation Bureau established where every man would get a square deal."

Mr. F. N. Stapelford, Secretary of the Neighborhood Workers Association, illustrating his view of the need of investigation and of follow-up work said: "A recent Police Court case will bring out many defects in this institution and be the means of suggesting some improvements that should be made . . . The prisoner was a woman charged with vagrancy. She had no home, was a mental defective and therefore, unable to take care of her children. She was also immoral. The social worker was giving evidence. "You mean this woman is feeble minded," shouted the lawyer, cross-questioning the worker. On the reply being in the affirmative, "This poor woman is feeble minded" was shouted from one to the other down the table. On further questioning "This poor woman is immoral"

was shouted out. "Why can't she be put in a home?" was asked by the Judge. "There is no home" was the reply. "No home in Toronto: Mr. _____ is there no home where this woman can be placed in Toronto?" "I am afraid not,—the Haven is full." "All right this woman must go to gaol for six months. All she needs is good food and a warm bed and she'll be all right when she comes out." So the woman went to the gaol farm for six months There was no suggestion of the follow-up work to be done. Here was a feeble minded woman—immoral, and the cure was six months at the gaol farm There was no suggestion of diagnosis and then the treatment that would rehabilitate the woman and give her the care and attention of which she was so much in need. Rather the atmosphere created was "That is the easiest way to dispose of a vagrant."

Miss Brown of the City Department of Health says: "In attempting to do any curative work we are greatly handicapped by the lack of complete records. It has not been the custom to keep records of these small cases beyond the entry of the name and the charge. Judge (Mrs.) Norris, of New York, does not pass sentence until 48 hours have elapsed after conviction, and during that 48 hours the prisoner passes through the hands of the Probation Officer and medical men and at the end of that time all information in regard to the prisoner is at the disposal of the Judge. It is rather interesting to see what she does with that information. If the girl is diseased she goes to the hospital specially provided for that disease and if a first offender she is put on parole. In the case of a first offender they make it their business to find her employment. If she is a repeater she is sent down to a detention home and if she is a very old repeater, she is sent to the Tombs. All records are kept in this court on an index file system. I was in Court (at Toronto) the other day and the lawyer for a woman said this was her first offence. I happened to know it was not her first offence, but the Court did not know that. The Magistrate here has no means of knowing unless a policeman or somebody remembers that the girl was up before A few days ago a girl was charged with being an inmate of a house of ill-fame; the facts were quite clear but the evidence was not quite strong enough to secure a conviction and the girl returned to the house of ill-fame. She happened to come into our office and we sent her home. There should be a Probation Officer to look after cases of that kind."

Mrs. Laughton, General Secretary of the Big Sister Association, says: "At present there is no social investigation before a case comes up in the Police Court. They make no investigation of the mental condition or the social condition of the prisoner. We cannot hope to do anything until we have a thorough investigation of the case you may punish but you cannot treat."

Mrs. A. M. Huestis, speaking for the Big Sister Association said: "An adequate staff of Probation Officers should be secured for the Juvenile, Women's and Men's Courts whose duties would include the investigation of cases, the keeping of records and the co-relating of activities of the agencies for rehabilitation."

"The trouble with the Police Court," said Mrs. O'Sullivan, Superintendant of the Mercer Reformatory, to the Commission, "is that the breaking of the law is considered far more than the sin of the individual A probation court would help a great deal if you had a sufficient number of probation officers to do the follow-up work."

Criticisms of the probation system are frequently made and instances are given where crimes have been committed by individuals who have been placed on

probation, but we hear very little in some quarters of the many who have been saved, by the probation system, from a life of crime.

PSYCHIATRIST.

Among the recommendations made to us is one that a Psychiatrist be attached to all courts to examine cases where mentality is in question. A psychiatrist is a medical man who deals with mental disorders. It is stated that careful study made in Canada and the United States has demonstrated that fifty per cent of those who are chronic repeaters are mentally defective. Under the old system they have been treated in the same way as ordinary people and found guilty and sent to gaol. The cases of these mental defectives should be studied and appropriate treatment provided. An immense amount of public money is wasted through unscientific treatment of this class of criminals.

Dr. Clarence Hincks, in reply to a question regarding the work of a psychiatrist, said: "He would have quarters in the building where the court was held, but most of the work would be done in connection with the Detention Home. There would be many cases where a Judge would hesitate to pass sentence without getting a great deal of data There must be a special study made of those people who from time to time are going through the Courts."

BAIL.

In cases where a person is arrested for breach of the Ontario Statutes and taken to a local police station, the Sergeant in charge there has authority to accept bail. In a number of instances inconvenience and hardship have been caused through delay in granting bail in these cases. It appears that delay sometimes occurs through the Sergeant being uncertain of the amount of bail required. Would not time be saved and much inconvenience avoided if the amount of bail required in each case were stamped upon the warrant when it is issued? There would then be no delay in fixing the amount.

In cases which come under the Criminal Code bail has to be given before a Police Magistrate or a Justice of the Peace. Every day a magistrate attends at the city goal from 2 to 4 in the afternoon for the purpose of taking bail from those to whom the Police Magistrate or Crown Attorney has directed that bail be granted. For these services the Magistrate attending has been granted a special allowance of \$1,000.00 per annum by the City. At other hours if bail is to be accepted a Magistrate has to be taken specially to the goal and we are informed that after 5.30 p.m. it is difficult to get any one out on bail. As the taking of the acknowledgement for bail is largely a formality, why should not the Sergeant at every police station be appointed a Justice of the Peace so that he could take bail from prisoners who are charged with violation of Dominion Statutes just as he can now take bail from those who are charged under the Ontario Statutes? And why should not the Governor of the gaol also be made a Justice of the Peace so that he could accept bail at any time that an order for bail is made for any one in gaol? If this were done the attendance of a Magistrate or Justice of the Peace at the gaol would be unnecessary, expense would be saved and public convenience be served.

Mr. J. W. S. Corley, former Crown Attorney for Toronto, says: "There is no reason why a Police Sergeant should not be made a Justice of the Peace, and

there is no reason why the Governor of the Gaol should not be given the same power."

Mr. W. A. Henderson, Barrister, of Toronto, in reply to our inquiry as to the desirability of appointing the Governor of the Gaol a Justice of the Peace said: "Yes, that would eliminate the necessity of the Magistrate going there at a certain time. At the present time we cannot get into the gaol after half-past five The Sergeant (at a local Police station) should (also) be appointed a Justice of the Peace for the purpose of granting bail."

BAIL BONDS.

In cases where bail is not taken at the local Police Station or at the gaol it is taken at the Police Court. It is frequently given when the prisoner is up before the Magistrate and the filling out of the bail bonds and the acknowledgements by prisoners and sureties interrupts and delays the proceedings of the Court. Might not the process of giving bail be simplified by doing away with the cumbrous bail bond which, as a matter of fact, is not signed by either the prisoner or his sureties? The following extract from the evidence given before us by Mr. J. W. Curry, M.P.P., former Crown Attorney Corley and Police Magistrate Brunton is very much to the point.

Mr. Curry: "The recognizance issued by the Magistrate could be very much simplified. There is no reason why he should not endorse on the warrant "John Smith, 24 Wellesley Street, Bail \$5000.00" "William Jones, Walton Street, Bail \$5000.00." That should be sufficient signed by the Magistrate without making out a long Bail bond."

Q. "It would not be necessary for the Magistrate to sign anything more except that?"

A. "That would be all that would be necessary, it is only evidence of the fact that the man is bound and that is all that bail is."

Mr. Corley: "Mr. Curry and I have often talked that matter over. At the present time the Magistrate says you are bound in a sum of \$5000. and you say 'Yes', and then he has to draw out a bond. I want to simplify some of these things because time is taken up in drawing these bail bonds, the endorsation could be done right at the time."

Police Magistrate Brunton: "Filling out the long forms is a matter of very great inconvenience and I frequently do it after the Court is over, it does not bind the parties any more."

WHY RENEW BAIL.

Is there any reason why it should be necessary continually to renew bail once it has been given? The renewal necessitates the attendance of the sureties at the Police Court or Gaol. Why should not bail once given stand until the case is finally disposed of unless the surety desires to be relieved or the Crown withdraws bail or requires increased or other bail? If, with these exceptions, bail once given were continued until the final disposal of the case, much time would be saved by the sureties and also by the officers of the Court. Of course, this change could not be made without an amendment to the Criminal Code.

Mr. Corley says: "There is no necessity for issuing a bail bond every time."

LACK OF CIVILITY.

Complaint has been made to us of a lack of civility on the part of some Sergeants at Police Stations and an absence of a desire to oblige the public.

Mr. W. A. Henderson says: "When I have gone to a Police Station to get bail I have always been struck with the atmosphere and the conduct of some Sergeants; they seem to want to keep a man in, and I have had to go to the Crown Attorney, and I have been put to a great deal of trouble. I do not think they mean it but they act that way."

Mr. A. B. Armstrong says: "I have found that officers in charge of central or outside stations have been most discourteous to good citizens who have been guilty of some minor infraction of the law They should recognise the right of the citizens to send for bondsmen"

Similar complaints have come to us from other quarters and against other members of the Force, and we believe them to be, in the main, well-founded. The Toronto Police Force is among the best in the world and is a source of pride to the citizens. Its character and standing is largely due to Colonel Denison, who, as a member of the Police Commission, has done much to build up and control it. We fully agree with the sentiment expressed by Colonel Denison when he says: "I do not think you will find any Police Force in America better than the Toronto Police Force; they have the reputation of being the best."

We have found at Police Headquarters splendid officials, civil, obliging, and solicitous for the public convenience. The complaints are, as a rule, against the subordinate officials at Police Headquarters and the Police Court and also at sub-stations throughout the City. Habits of civility and politeness should be cultivated and encouraged among all the officers and men. There should be a full recognition of the fact that, while it is their place to do their duty without fear or favor, they are the servants of the public. To be civil, courteous, and obliging to all the citizens who are brought into contact with them will not lessen their efficiency and will do much to increase their usefulness.

A MISNOMER.

The Police Court is misnamed. It was not established by the Police or for the Police, but by the Community for the service of the Community. The less of the spirit of the Police that there is about the Court, the better for the Community. It should not be called the Police Court but should be called The Municipal Court or some name equally appropriate and unobjectionable. For the reasons set out in our general report on Police Magistrates we are strongly of opinion that the Police Magistrate should not be a member of the Board of Police Commissioners. By being a member of the Police Commission he is too closely identified with the Police, the members of which are before him as prosecutors or witnesses every day.

Mr. J. W. Curry, M.P.P., says: "I think we should get away from Police Courts. They ought to be Municipal Courts, and they, (the Magistrates) should be called Judges of the Municipal Court. There is a certain domination by the Police over the Police Court. The Police must necessarily come in to give evi-

dence, but the officers of the Court should try and impress upon them that they are protectors and friends of the public, instead of being looked upon, as they are now, as enemies."

MILITARY FEATURES.

Military features are in evidence at the Police Court. When members of the Police Force give evidence in a case they are often marched up to the witness box as a platoon under the command of an officer, the effect, if not the design, apparently being to impress or overawe the accused or his witnesses and to lead the policeman to realize that they are giving evidence under the eye of a superior officer. Protests against this practice have been made, but it is still followed. If a policeman gives evidence he should be called from the body of the Court just as any other witness is called.

TAKING INFORMATIONS, &C.

All information, summons and warrants are issued in the office of the Police Court Clerk. These number several hundred a day and the time of the Magistrate on the Bench for the time being is frequently taken up signing warrants and receiving informations. The taking of information is largely a formality and special provision should be made to have these papers signed by a Magistrate not on the Bench at the time, or by a Justice of the Peace.

ISSUING WARRANTS.

Complaint has been made that warrants for the arrest of accused parties are issued too readily. The Criminal Code provides that before a warrant is issued a Magistrate shall hear the complainant. In reply to our inquiry as to whether the provisions of the Code are being observed, former Crown Attorney Corley said: "Decidedly not! and that is the point I have been trying to make for years. The Magistrate should hear the parties before the warrant is issued. That is the law, but it is not being obeyed."

A warrant may also be issued on the fiat of the Crown Attorney. The following are extracts from the evidence given before us on the subject:

Q. "When parties come before you for a fiat do you hear their statemets?"

Mr. Corley: "Yes, I inquire carefully."

Q. "Is there any record kept of their statements?"

A. "No. I have no shorthand reporter; they often come to my house. It is not always easy to know what to do; people do not always tell the truth."

Q. "There are a number of warrants issued in this City without a fiat and without a hearing by a Magistrate?"

A. "Yes"

Mr. Gordon Shaver: "I think the Police issue too many warrants."

Mr. Corley: "I think I agree with you; in many cases they might get a summons. It is not the fault of the Police, but a summons would do in many cases"

Q. "What changes should be made?"

A. "There should be more Magistrates and more Crown Officers."

Q. "You think with the present system it is imposible to get the work efficiently done?"

A.—"I am certain."

Referring later to the same subject, Mr. Corley said: "People come to my house on a Sunday morning to get bail because they have been refused by the Sergeant. There are too many warrants issued instead of summons."

Mr. J. W. Curry, M.P.P., former Crown Attorney, says: "There is very little care taken to assure people not being arrested who will not run away. I think the authorities should understand that unless there is danger of a man not answering a summons or unless it is a very serious offence he ought not to be arrested. No Crown Attorney who has ever occupied the position will dispute the statement that arrests are made and warrants are issued that should not be issued. A constable will ask for a warrant and go to a house at half-past ten, will knock at the door and say, "I have a warrant for John Smith's arrest,"—he then takes him to the station—the wife is left with the children and she has to scurry away to some friend's house and get him up in the middle of the night in order to get bail. No warrant should be issued for the arrest of anybody except on the authority of the Crown Attorney. Hold the Crown Attorney strictly responsible for it.

Many of the irregularities in the issue of the warrants and much of the delay in granting bail are due to the failure to provide adequate machinery and accommodation. If there were a central building in which the Criminal Courts were located and the prisoners were kept, conditions would be vastly improved. The Crown Attorney or an Assistant Crown Attorney could be in the building or within reach at a stated place all the time and instead of parties having to run all over the City in order to arrange bail it could be arranged on the spot.

COMMUNICATION WITH FAMILY ETC. PREVENTED.

Strong complaint has been made before us of difficulties put in the way of persons arrested of communicating with their family and friends. It is said by the police that there are certain cases where, for instance, goods have been stolen, when it is necessary to prevent communication between the prisoner and his family or counsel until an attempt is made to recover the stolen articles or until the articles stolen have been recovered. Doubtless there are cases of this kind, but as a general rule every facility should be given to prisoners to get into communication with their families and friends and their lawyers. We believe that these facilities are often deliberately and wantonly withheld without justification or excuse and that much inconvenience and distress is caused thereby. One instance was brought to our attention where a party who should have been allowed to communicate with his family or counsel at once was not permitted to get in touch with them until nearly a day after his arrest. Such cases as this occur far too often.

MAKE CHIEF AND DEPUTY JUSTICES OF THE PEACE

Inconvenience is frequently caused at Police Headquarters because after five o'clock in the evening there is seldom a Justice of the Peace there to take informations.

Inspector of Detectives Guthrie says: "If an officer comes in from the outside for a prisoner he may not get here until 5 or 6 o'clock and in order that

he may remove the prisoner we have to go around and find a Justice of the Peace and it would be a great convenience if the information could be sworn before the Chief of Police or his Deputy."

There would appear to be no objection to making the Chief Constable and his Deputy Justices of the Peace for the purpose of taking informations and we recommend that this be done.

WIFE DESERTION CASES.

The number of cases of wife desertion shows a large increase of recent years. Most of the husbands who desert their wives go to the United States; some of them to other Provinces of the Dominion. Those going to the United States are sometimes, upon being reported to United States authorities, sent back by Immigration Officers. If they are not sent back in this way, a man frequently has to be sent for them. No part of the expenses incidental to their being brought back by the Police is paid unless upon their return a conviction is secured. The result is that the money has to be put up by the deserted wife, who in most instances has no money at all, or if it is not put up by her it is advanced by the Police Benefit Funds. If the husband on his return is convicted of wife desertion the money advanced is repaid to the fund; if he is not convicted no payment is made and the fund is the loser.

In order to secure a conviction and thus get back the money advanced, the wife is usually brought to Court to testify against the husband, and the presence of the wife on the witness stand testifying against the husband frequently defeats the very object sought in bringing the husband back. A better plan would seem to be to provide that instead of the expense being advanced by the deserted wife or out of the Police Benefit Fund, it should be paid out of a fund made available by the Government for that purpose, upon the Magistrate or Crown Attorney certifying that the husband should be brought back. Frequently the case of the wife can be better dealt with by proceeding under the Deserted Wives' Act passed by the Ontario Legislature, but if proceedings are taken under this Act none of the expense of bringing back the husband is refunded, whether he is convicted or not. Under the Ontario Act the Court is empowered to make an order for payment by the husband of a sum not exceeding \$20.00 a week for the maintenance of the wife and family, but there is no provision for such an order being made under the Dominion Act, hence the advantage in this respect of proceeding under the Ontario Law.

If the husband comes back and is physically fit to work but refuses to work the Court should have power not only to send him to gaol but to direct that work shall be provided for him at the gaol and that his earnings there shall be applied for the support of his family. If the deserting husband does not work the wife has to go out to work continuously; the children are left alone to run around and take care of themselves as best they can and they frequently become criminals and a charge on the community.

The present situation in respect of deserted wives was set forth very clearly by some of the witnesses that appeared before us. The following is an extract of some of the evidence given.

INSPECTOR MCKINNEY:

"It very often occurs in our department that we have a case where a husband takes a notion for another woman and gets away and leaves his wife. We locate him somewhere in the Province or in the United States and I go up to Inspector Guthrie with a warrant for his arrest, on the ground that he has deserted his wife and left her without support. He immediately tells me to get the woman, who is already

starving, to put up the money. If I put up the money it comes out of our Benefit Fund."

Q. "Why should the Police Benefit Fund put up the money?"

A. "There is no other money to put up. A policeman cannot put up the money out of his own pocket. Even when he brings the man back, if it is possible to get him and his wife to come together without prosecution we do so, that is my highest ambition, and when that happens the Inspector will say: 'There is so much more gone through you, McKinney.' I have to tell his wife before I send for him that she will have to go to the witness box against her husband. If there was a means of bringing the man back as there should be, I should not be forced to put this woman into the witness box against her husband."

Q. "On what certificate would you suggest that the money might be payable?"

A. "I think on an affidavit from Inspector Guthrie or his man that he had gone after the prisoner on a warrant."

Q. "Or it might be on the certificate of the Magistrate?"

A. "Yes, the woman has got to swear that her husband deserted her before we can take any action."

Q. "What is the practice in New York and Ohio and Michigan?"

A. "The State pays it: I am not so sure about New York"

Mr. F. N. Stapelford says:

"It should not be necessary for the wife only to take out a warrant against her deserting husband. Anyone familiar with the facts of the case and acting in the interests of the family should be allowed to do so."

MISS JANE BARCLAY, Secretary Social Service Commission, says:

"We had an officer from Buffalo in our office a few weeks ago who was searching for a man. I want very much to put strongly before the Commission the fact that in social work in the City it is really alarming the lack of machinery we have for following a man who deserts his wife. Children are going to institutions largely because of desertion, and the women do not want to appear against their husbands, and I do not think they should be asked to. There is always a chance for reconciliation, and if a woman appears against her husband, that chance is gone."

INSPECTOR GUTHRIE:

"We have a case of an American citizen who has been living in Canada for years and who got married in Canada. He deserts his wife and goes back to the United States and he cannot be extradited, and he cannot be deported. Sometimes we get them deported through the kindness of the border cities. If we want a man in Detroit they will get him for us. Detroit works with us better than any other city. They will take a man right over to Windsor and hand him over to the Windsor police and say: 'Send him to Toronto'. If he won't come back voluntarily, they will hand him over to the Immigration Officer and he will deport him. The Cities on the border are of great assistance to us where the people cannot afford to pay the expense. They will send them over the Border, and then the Province pays for bringing them from the Border."

CONCLUSIONS.

The testimony given before us by the Magistrates and officials of the Police Court, by members of the various social organizations, by members of the legal profession and by the public, lead us to the conclusion that while the volume of work of the Toronto Police Court has grown enormously during the past twenty years, the spirit and method of administration remain practically unchanged. It is still a Police Court in more than name. Men in uniform are everywhere and the spirit of the Police seems to dominate the place. Methods that were followed thirty years ago are considered good enough for today. The prisoner is regarded too much as an individual to be punished, and his reform a matter with which the time of the Court should not be taken up. It has been well said of this and of other Courts, that there is a clash between the old ideas and the new ideas: a contest between the conception of our traditional law and modern juristic conceptions born of a new movement in all the social sciences. That changes must be made today if the Court is to serve the community as it should be served, is not necessarily a reflection on the Court. Changes are needed largely because of changed conditions which many of us have not fully appreciated.

ONE CENTRAL CRIMINAL COURT.

Could we not simplify the machinery of the law, promote efficiency and avoid the delays which now so often occur, by giving the Police Magistrates full jurisdiction finally to dispose of all cases which are now tried in the Police Court, the County Judges' Criminal Court and at the General Sessions of the Peace? If our recommendations regarding the qualifications of Police Magistrates should be carried into effect, a Police Magistrate should be just as competent to dispose of a criminal case coming before him as a Judge of the County Court. A jury panel for a Court as large as the Toronto Police Court, could readily be provided, the panel being called for, say, one month and the Court having power to call only half the panel if that should be sufficient. Thus anyone electing to be tried by a jury, could be tried forthwith in the Police Court instead of being committed and often kept in gaol for months for trial at the Sessions as at present. Anyone electing to be tried without a jury, could be tried forthwith by the Magistrate. The County Judges' Criminal Court and the General Sessions of the Peace, would thus pass out of existence in Toronto and in the County of York. City and County would save thousands of dollars, public convenience would be promoted and County Court Judges would be able to devote themselves wholly to civil work. To bring about these changes, amendments to the Criminal Code would be required, but we believe that it would be well worth while to make them.

COLONEL DENISON.

Since the greater part of this report was written, Colonel Denison has announced his retirement from the Police Court Bench. We have not omitted our comments upon his Court, because whatever we have said regarding what have appeared to us to be shortcomings and whatever we have said regarding suggested improvements or changes, has appeared to us to be pertinent whether the Court be presided over by himself or his successor.

(Signed) W. D. Gregory, Chairman.

" Horace L. Brittain.

" Norman Sommerville

" Albert Hellyer.

" E. A. Pocock.





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